



*The Big Sky Country*

## MONTANA HOUSE OF REPRESENTATIVES

**REPRESENTATIVE JOHN E. WITT**  
HOUSE DISTRICT 28

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September 28, 2006

Penny Coleman, Acting General Counsel  
National Indian Gaming Commission  
1441 L Street NW, Suite 9100  
Washington, D.C. 20005

Dear Ms. Coleman:

**SUBJECT:** *Comments on Electronic Or Electromechanical Facsimile Definition*

As legislators in the State of Montana, we understand and respect Tribal and Indian Gaming Commission (NIGC) jurisdiction over Class II Gambling. In the State of Montana, however, a large number of electronic gambling devices referred to as Class II are now in play on several reservations, which machines in every rational respect appear to be - and are being played by customers as - Class III gambling devices.

These alleged "Class II" devices are in truth nothing more than slot machines and, in fact that is how they are being advertised. This is in clear violation of the Indian Gaming Regulatory Act (IGRA), which plainly states that Class II gaming does not include electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

Apparently, because the NIGC has not acted to rein in such practices, some tribal operators have been emboldened to stretch the "Bingo" latitude even wider. The Blackfeet have opened a casino near Browning, Montana, where they are currently offering the house banked game of blackjack and advertising they will also offer craps, roulette, and baccarat. This is being done without a compact with the State of Montana, and apparently based on the Blackfeet's argument that these games are a form of bingo.

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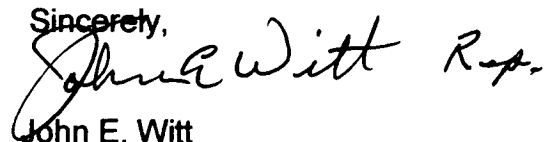
The ramifications for Montana are immense. There are nearly 2000 non-tribal operators in Montana, in business since 1989, who are limited to poker, keno and bingo—in live or electronic forms. They are limited to 20 machines per establishment and have maximum \$800 payouts. Already the Tribes enjoy sizeable advantages with numbers of machines allowed and payouts.

Non-tribal operators have not complained of these disadvantages. However, if they are now forced – because of a lack of clarity in NIGC's "Bingo" rules - to compete with tribal mega-casinos offering "wide open" gambling, then surely, and justifiably, they will seek to find an economic balance by proposing legislation to "ratchet" up to or near the level of gambling the Tribes are offering.

Thus, because of an exploited loophole in the Commission's bingo rules, Montana could end up with the wide-open gambling its' citizens have long opposed.

We respectfully urge you to expeditiously close these loopholes by adopting your bingo rules as proposed. Currently, in Montana, they are being exploited to the point of meaninglessness.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Witt Rep.", written in a cursive style.

John E. Witt  
Chairman, Montana  
Gaming Advisory Council,  
& Montana State Representative

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